



# राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, ८ अप्रैल, १९७७/१८ चैत्र, १८९९

## GOVERNMENT OF HIMACHAL PRADESH

### LABOUR DEPARTMENT

#### NOTIFICATION

*Simla-171002, the 6th April, 1977*

**No. 7-111/76-LEP-Shram.**—The following draft rules which the Governor of Himachal Pradesh proposes to make in exercise of the powers conferred by sub-section (2) of section 26 of the Payment of Wages Act, 1936 (Central Act No. 4 of 1936) are published as required under sub-section (5) of section 26 of the said Act for the information of persons likely to be affected thereby and notice is hereby given that these draft rules will be taken into consideration after the expiry of 90 days from the date of publication of this notification in the Himachal Pradesh Rajpatra.

Any person who has any objection or suggestion to make, may send the same to the Labour Commissioner, Himachal Pradesh, Simla-2 within the above mentioned period and the objections and suggestions so received shall be duly taken into consideration by the competent authority before adopting the rules finally.

#### DRAFT RULES

1. These rules may be called the Himachal Pradesh Payment of Wages (Procedure) Rules, 1977.

## Definitions.

2. In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act, 1936 (Central Act IV of 1936);
- (b) “appeal” means an appeal under section 17;
- (c) “the Authority” means the authority appointed under sub-section (1) of section 15;
- (d) “the Court” means the court mentioned in sub-section (1) of section 17;
- (e) “employer” includes the persons responsible for the payment of wages under section 3;
- (f) “form” means a form appended to these rules;
- (g) “Record of order or direction” means the record of an order dismissing either wholly or in part an application made under sub-section (2) of section 15 or of a direction made under sub-section (3) or sub-section (4) of that section kept in Form “F”.
- (h) “section” means the section of the Act;
- (i) The words and expressions defined in the Act shall be deemed to have the same meanings as are assigned to them in the Act.

## Form of Application.

3. Applications under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form ‘A’, Form ‘B’ or Form ‘C’, as the case may be, one copy of which shall bear such Court fee as may be prescribed.

## Authorisation.

4. The authorisation to act on behalf of an employed person or persons, under section 15 shall be given by a certificate in Form ‘D’, shall be presented to the authority hearing the application and shall form part of the record.

## Permission to appear.

5. Any person desiring the permission of the authority to act on behalf of any employed person or persons shall present to the authority a brief written statement explaining his interest in the matter, and the authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

## Presentation of documents.

6. (1) Applications or other documents relevant to an application may be presented in person to the authority at any time during hours to be fixed by the authority, or may be sent to him by registered post.

(2) The authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt as the case may be.

## Refusal to entertain application.

7. The authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard, the authority is satisfied, for reasons to be recorded in writing that,—

- (a) the applicant is not entitled to present an application; or
- (b) the application is barred by reason of the provisions in the proviso to sub-section (2) of section 15; or
- (c) the applicant shows no sufficient cause for making a direction under section 15,

(2) The authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and, if he so refuses, shall return it at once with an indication of defects. If the application is presented again, after the defects have been made good, the date of representation shall be deemed to be the date of presentation for the purposes of the proviso to sub-section (2) of section 15.

8. (1) If the application is entertained, the authority shall call upon the employer by a notice in Form 'E' to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

Appearance of parties.

(2) If the employer or his representative fails to appear on the specified date, the authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the authority may dismiss the application:

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the applicant re-heard on good cause being shown within one month of the date of the said order, notice being served on the opposite party of the date fixed for re-hearing.

9. (1) The authority shall in all cases enter the particulars indicated in Form 'F' and at the time of passing orders shall sign and date the form.

Record of proceedings

(2) In a case where no appeal lies, no further record shall be necessary.

(3) In a case where an appeal lies, the authority shall record the substance of the evidence and shall append it under his signature to the record of order or direction.

10. Any form, other than a record of order, or direction which is required by these rules to be signed by the authority may be signed under his direction and on his behalf by an officer subordinate to him appointed by him in writing for this purpose.

Signature on forms.

11. In exercise of the powers of a Civil Court conferred by section 18, the authority shall be guided in respect of procedure by the relevant orders of the First Schedule of the Code of Civil Procedure, 1908, with such alterations as the authority may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of the Act or these rules.

Exercise of powers.

12. (1) An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court fee, setting forth concisely the grounds of objection to the order dismissing wholly or in part an application made under sub-section (2) of section 15 or a direction made under sub-section (3) or sub-section (4) of that section, as the case may be, and shall be accompanied by a certified copy of the said order or direction.

Appeals.

(2) When an appeal is lodged a notice shall issue to the respondent in Form 'G'.

(3) The court after hearing the parties and after such further enquiry, if any, as it may deem necessary, may confirm, vary, or set aside the order or direction from which the appeal is preferred, and shall make an order accordingly.

Inspection  
of docu-  
ments.

13. Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other document filed with the authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on payment of such fees as may be prescribed.

Order or  
direction  
when to be  
made.

14. The authority or the court, as the case may be, after the case has been heard, shall make *the order or direction* either at once or as soon as practicable, on some future day; and when the order or direction is to be made on some future day, it shall fix a date for the purpose of which due notice shall be given to the parties or their pleaders.

Repeal and  
Savings.

15. The Himachal Pradesh Payment of Wages Rules, 1959, as in force in the areas, which comprised in Himachal Pradesh immediately before the 1st November, 1966 and the Punjab Payment of Wages Rules, 1937 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed, but all actions taken and the orders made under the rules so repealed, shall, so far as they are not inconsistent with these rules, be deemed to have been respectively taken and made under these rules.

#### FORM 'A'

### FORM OF INDIVIDUAL APPLICATION

[See sub-section (2) of section 15 of the Payment of Wages Act, 1936 and rule 3]

### IN THE COURT OF THE AUTHORITY APPOINTED UNDER THE PAYMENT OF WAGES ACT, 1936

(CENTRAL ACT IV OF 1936)

For.....area

Application No.....of 19....

Between

A, B, C.....  
(through the legal practitioner.....  
.....  
an official of.....  
which is a registered trade union),

Applicant  
and  
Opposite party

The applicant states as follows:—

1. A, B, C is a person employed in/on the factory/railway/industrial establishment entitled ..... and resides at .....

The address of the applicant for the service of all notices and processes is.....

2. X, Y, Z the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is.....

3. (1) The applicant's wages have not been paid for the following wage period(s) (give dates).....  
or a sum of Rs..... has been unlawfully deducted from his wages of..... [Amount for the wage period(s) which ended on] (give dates).....

(2) (Here give any further claim or explanation).....

4. The applicant estimates the value of the relief sought by him at the sum of rupees.....

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the authority may find to be due or refund of the amount illegally deducted.

(b) Compensation amounting to.....

The applicant certifies that the statement of fact contained in this application is to the best of his knowledge and belief accurate.

Signature or thumb impression of the  
employed person or legal practitioner  
or official of a registered trade union  
duly authorised.

FORM 'B'

### FORM OF GROUP OF APPLICATION

[See sub-section (2) of section 15 and Section 16 of the Payment of Wages Act, 1936 and rule 3]

IN THE COURT OF THE AUTHORITY APPOINTED UNDER  
THE PAYMENT OF WAGES ACT, 1936

(CENTRAL ACT IV OF 1936)

For..... area

Application No. .... of 19.....

Between

A, B, C and (state number).....others,  
(through.....a legal  
practitioner)...../an official or.....  
.....which is a registered trade union.

Applicants.

and

X, Y, Z.....  
(Opposite party)

The applicants state as follows:—

1. The applicants whose names and permanent addresses appear in the attached schedule are persons employed in/on the factory/railway/industrial establishment entitled.....

The address of the applicants for service of all notices and processes is.....

2. X, Y, Z the opposite party, is the person responsible for the payment of wages under section 3 of the Act, and his address for the service of all notices and processes is.....

3. The applicants' wages have not been paid for the following wage period(s).....

4. The applicants estimate the value of the relief sought by them at the sum of rupees.....

5. The applicants pray that a direction may be issued under sub-section (3) of section 15 for—

(a) payment of the applicants' delayed wages as estimated.....  
.....or such greater or lesser amount as the authority may find to be due.

(b) Compensation amounting to.....

The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.

Signature or thumb impression of  
two of the applicants or legal practitioner or an official of a registered trade union duly authorised

### SCHEDULE

Sl. No.	Name of applicant	Permanent address
(1)	(2)	(3)

FORM 'C'

FORM OF APPLICATION BY AN INSPECTOR OR PERSON  
PERMITTED BY THE AUTHORITY OR AUTHORISED TO  
ACT.....

[See sub-section (2) of section 15 and section 16 of the Payment of Wages  
Act, 1936 and rule 3]

IN THE COURT OF THE AUTHORITY APPOINTED UNDER  
THE PAYMENT OF WAGES ACT, 1936

(CENTRAL ACT IV OF 1936)

For.....area

Application No.....of 19....

Between

A,B,C (Designation).....an Inspector  
under the Payment of Wages Act or a person permitted by the authority/  
authorised to act under sub-section (2) of section 15.

Applicant.

and

X, Y, Z—  
(The opposite party).

The applicant states as follows:—

1. The X, Y, Z,.....the opposite party, is the person responsible  
under the Act, for the payment of wages to the following persons whose  
names and permanent addresses are given below:—

(1)

(2)

(3)

\*

\*

2. His address for the service of all notices and processes is.....

3. The wages of the said person(s) due in respect of the following wage  
period(s) have not been paid/have been subjected to the following illegal  
deductions.....

4. The applicant estimates the value of the relief sought for the persons  
employed at the sum of Rs.....

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for—

(a) Payment of the delayed wages as estimated or such greater or lesser amount as the authority may find to be due (or refund of amount illegally deducted).

(b) Compensation amounting to Rs. ....

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Signature.

FORM 'D'

### CERTIFICATE OF AUTHORISATION

[See sub-section (2) of section 15 of the Payment of Wages Act, 1936 and rule 4]

I/We employed person(s) hereby authorise a legal practitioner/an official of..... which is a registered trade union to act on my/our behalf under section 15 and section 17 of the Payment of Wages Act, 1936 (Central Act IV of 1936) in respect of the claim against..... on account of the delay in payment of illegal deductions from my/our wages for.....

Signature:

(1)

(2)

(3)

(4)

\*

\*

\*

Witnesses:

(1)

(2)

(3)

(4)

\*

\*

I accept the authorisation.

Legal Practitioner/official  
of a registered trade union.



FORM 'E'

NOTICE FOR THE DISPOSAL OF APPLICATION

[See sub-section (3) of section 15 of the Payment of Wages Act, 1936 and rule 8]

To

Whereas under the Payment of Wages Act, 1936 (Central Act IV of 1936), a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person or through any person duly instructed, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions on.....day of.....19..... at.....O'clock in the forenoon/afternoon to answer the claim; and as the day fixed for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to reply in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence.

Given under my hand and seal, this .....day of.....19....

Authority.

Seal.

FORM 'F'

RECORD OF ORDER OR DIRECTION

[See sub-section (3) of section 15 of the Payment of Wages Act, 1936 and rule 9]

- (1) Serial number ..
- (2) Date of application ..
- (3) Name or names, parentage, address or addresses of the applicants or some or all of the applicants belonging to the same unpaid group.
- (4) Name and address of the employer.
- (5) Amount claimed— ..

(a) as delayed wages ..

Rs.

(b) as deducted from wages ..

Rs.

(6) Plea of the employer and his examination (if any) ..

(7) Finding and a brief statement of the reasons therefor ..

(8) Amount awarded—

(a) delayed wages	..	Rs.
(b) deducted wages	..	
(9) Compensation awarded	..	
(10) Penalty imposed	..	
(11) Costs awarded to—	..	
(i) Court fee charges	..	
(ii) Pleader's fee	..	
(iii) Witnesses' expenses	..	
(12) Date by which the amount awarded shall be paid	..	

Signed.....

Dated.....

*Note.*—In case where an appeal lies attach on a separate sheet the substance of the evidence.

## FORM 'G'

Notice to respondent of the day fixed for the hearing of the Appeal under section 17 of the Payment of Wages Act, 1936 (Central Act IV of 1936.

(See section 17 of the Payment of Wages Act and rule 12).

Appeal from the decision of the Authority for the area, dated the..... day of..... 19 ..

To

.. Respondent.

Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for..... area has been presented by X, Y, Z (and others), and registered in this Court and that the..... day of..... 19.... has been fixed in this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, or by some one by law authorized to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this .....day of..... 19....

Seal of the Court.

Judge.

By order,  
R. C. GUPTA,  
Secretary (Labour).